

REMARKS

Claims 1-38 are all the claims pending in the application.

Foreign Priority

In the Office Action, the Examiner asserts that none of the certified copies of the priority documents have been received. The Examiner therefore asserts that Applicant's claim to foreign priority under 35 U.S.C. § 119 is not granted.

During a telephone interview with the Examiner on March 2, 2009, the Examiner agreed that this was a an error. The Examiner agreed that all certified copies of the priority documents have been received, and foreign priority is granted. The Examiner agreed to properly indicate the receipt of the documents in the next action.

Allowable Subject Matter

Applicant thanks the Examiner for indicating that claims 9-11, 13, 28-30 and 32 recite allowable subject matter, and would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. However, Applicant requests the Examiner hold in abeyance such rewriting until the Examiner has had an opportunity to reconsider and withdraw the prior art rejections of the other claims.

Objections to the Specification

The title of the invention is objected to as allegedly not being descriptive. The Examiner asserts that "a new title is required that is clearly indicative of the invention to which the claims are directed" (Office Action, page 2).

In view of the self-explanatory amendment to the title of the invention, Applicant respectfully requests reconsideration and withdrawal of this objection.

Claim Objections

Claims 1-38 are objected to because they recite the phrase “characterized”. The Examiner asserts that “it is not standard US [practice] to use characterized in the claim, because it reflects intended usage,” (Office Action, page 2). Claim 1 is also objected because “[the] claim is a hybrid claim (combination of a apparatus and method claim), because an apparatus is claimed in the preamble and a method is claimed in the body,” (Office Action, page 2).

In view of the self explanatory amendments to claims 1-38, Applicant respectfully requests reconsideration and withdrawal of the objections.

Claim Rejections under 35 U.S.C. § 101

Claims 1 and 20¹ are rejected under 35 U.S.C. § 101 as allegedly being directed toward non-statutory subject matter. In view of the self explanatory amendments to claims 1 and 20, Applicant respectfully requests reconsideration and withdrawal of the rejection.

Claim Rejections under 35 U.S.C. § 103

Claims 1-8, 12, 14-27 and 31-38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sandoval (U.S. Patent No. 6,990,073) in view of Tobagi et al. (U.S.

¹ On page 3 of the Office Action, the Examiner writes that “[claims] 19 and 20 are rejected under 35 U.S.C. § 101... [claims] 19-20 are directed to relaying method.” However since claim 19 is not a method claim, and the Examiner previously indicated § 101 issues with claim 1 (Office Action, page 2), the Examiner seems to have intended to reject claims 1 and 20 under 35 U.S.C. § 101. Applicant will treat the rejection as such.

Publication O. 2002/0080721; hereinafter “Tobagi”). For at least the following reasons, Applicant respectfully traverses the rejection.

Independent claim 3 is amended to more clearly recite the claimed invention. Claim 3, as amended, recites a session relay apparatus for realizing communication between a reception terminal and a transmission terminal by relaying data via a session, the apparatus comprising:

- a session relay unit, corresponding to the session, comprising:

- reception session processing means for receiving data from the transmission terminal,

- transmission buffering means for temporarily storing the data received from the transmission terminal in a transmission buffer,

- transmission session processing means for receiving data from the reception terminal,

- wherein the transmission session processing means calculates an amount of transmissible data based on the data received from the reception terminal;

- packet scheduling means for controlling delivery of the data stored in the transmission buffer, based on the amount of transmissible data; and

- delivery control means for delivering the data stored in the transmission buffer in response to the control of the packet scheduling means.

Sandoval is directed toward a circuit for congestion management in a data transmission system. Sandoval discloses a data input line 104, circuit 106, and data output line 108 (col. 2, lines 46-58). A signal is provided along the data input line 104 to an input 112 of the circuit 106. The circuit 106 monitors a number of data packets in a FIFO buffer 126, received from a sender, and time averages the number of data packets to produce a signal AVG_QUE (col. 3, lines 35-50). The signal AVG_QUE is used to detect symptoms of congestion, and upon detection of the

congestion, the circuit 106 informs the sender to slow the rate of transmission (col. 3, line 51 - col. 4, line 1). The circuit 106 outputs a signal via an output line 108 to a receiver 110 (col. 2, lines 46-58). However, Sandoval fails to teach or suggest the claimed invention as amended. That is, Sandoval fails to teach or suggest the claimed reception session processing means, transmission buffering means or transmission session processing means.

Tobagi fails to address the above-identified deficiencies of Sandoval, with respect to claim 3.

Accordingly, Applicant respectfully submits that claim 3 is patentable over the applied references. Claims 15, 22 and 34 are amended and recite one or more features analogous to those discussed above with respect to claim 1, and are therefore patentable at least for reasons analogous to those given above with respect to claim 1. Applicant further submits that claims 1,2, 4-8, 12, 14, 16-21, 23-27, 31-33 and 35-38 are patentable at least by virtue of their respective dependency on claims 3, 15, 22 or 34.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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